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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,551	09/02/2001	Markus Baumann	GS 0443 A US	1933
7590	12/22/2003		EXAMINER	
Alfred J. Mangels 4729 Cornell Road Cincinnati, OH 45241-2433			CHARLES, MARCUS	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 12/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/945,551	Applicant(s) BAUMANN ET AL.
Examiner Marcus Charles	Art Unit 3682	

### ***Office Action Summary***

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 01 October 2003 and 01 November 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-3 and 7-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-3,8-18,20,21,23 and 24 is/are rejected.

7)  Claim(s) 7,19 and 22 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.      6)  Other: \_\_\_\_\_ .

## DETAILED ACTION

This action is responsive to the amendment and RCE filed 10-01-2003 and 11-01-2003 respectively. Claims 1-3 and 7-24 are currently pending.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-3, 11-18, 20-21 and r3-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 2 and 3, the rocker member lacks antecedent basis.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 8, 12, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Rooij et al.(5,728,021) in view of Chiba et al. and Sakate et al.(6,294,029). Van Rooij et al. discloses the claimed invention including the pulley includes rocker pins (45,47) having end surfaces (84, 86) that are in contact with the engaging the conical surfaces (65, 67) of a pulley (fig. 5). Van Rooij et al. do not disclose the conical surfaces of the pulley and end surfaces of the rocker pins are surface hardened with nitrogen-enriched layer in the form of carbon-nitrided layer. Chiba et al. discloses that it is well

known to surface harden the conical surfaces of a cone pulley through nitriding in order to reduces wear and friction on the surface. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to apply a layer of surface hardening through nitriding in view of Chiba et al. to reduces wear and friction on the surface. In addition, Sakate et al. discloses that it is well known in the art to surface harden contact surfaces through nitriding and case hardened so as to improved the smoothness of the surfaces and reduce friction. Therefore, it would have been obvious to one of ordinary skill in the art to surface harden contacting surface through nitriding in view of Sakate et al. so as to improved the smoothness of the surfaces and reduce friction.

In claim 9-10, 13-14 and 16-18, note Chiba et al discloses the surfaces of the case hardening of at least 0.5 mm.

***Allowable Subject Matter***

5. Claims 7, 11, 19-24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
6. Claims 7, 19 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Besel (3,049,933), van Rooij et al.(5,728,021) and Heinrich (6,142,903) disclose a CVT having rocker members that engage the contact surface of a conical pulley.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday -Thursday 7:30 am-600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

  
Marcus Charles  
Primary Examiner  
Art Unit 3682  
December 10, 2003